



*The Commonwealth of Massachusetts*  
**Department of Labor and Workforce Development**  
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August 14, 2002

Elaine L. Chao  
U.S. Secretary of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

RE: Clarification and Revision to the Commonwealth of Massachusetts Waiver  
Request Regarding Specific Requirements Under The Workforce Investment Act  
For Individual Training Account Subsequent Eligibility Period.

Dear Secretary Chao:

The Commonwealth of Massachusetts would like to clarify and revise its waiver request originally submitted May 14, 2002. At this time the Commonwealth of Massachusetts requests a waiver to extend the period of initial eligibility of training providers. This delay will give Massachusetts more time to develop consistent data for all training providers on which to base an effective subsequent eligibility process.

**A. Statutory Regulations to be Waived:**

Massachusetts request to waive WIA Section 122(c)(5) and 20 CFR Part 663.530, to be permitted to extend the period of initial eligibility of training providers beyond December 31, 2001, until **June 30, 2004**.

**B. Goals to be Achieved by the Waiver:**

The goals to be achieved by the waiver are to:

- Allow more time to create an attractive system of voluntary participation by all training providers to report non-publicly funded student information.
- Improve and coordinate the data collection and reporting procedures of the training providers;
- Assure that reported data is accurate and verifiable;
- Continue to offer customer choice while the reporting issues are resolved.

### **C. State or Local Statutory or Regulatory Barriers:**

There are no existing state or local statutory or regulatory barriers to implementing this waiver request. However, there have been many issues of confidentiality and data management related to the use of wage records for performance management and evaluation. This has been caused in part by the fact that in Massachusetts the employer wage records are collected by the Department of Revenue and then made available for UI benefit administration through an interagency agreement with the Division of Employment and Training (the SESA agency). In order to help remove this barrier and at the urging of the Performance Measures Committee of the Governor's Task Force to Reform Employment and Training programs, the agreement between DOR and DET was modified during the Summer and Fall of 2001 to provide DET with greater flexibility in meeting the needs of the various programs using wage records for performance measurement under the Workforce Investment Act. Procedures for the use of wage records to evaluate the performance of Title I participants have been successfully instituted and the Commonwealth has been able to meet its reporting responsibilities (e.g., Title I Annual Report). These procedures also provide the capacity to evaluate the success of Title I participants by ITA vendors and programs.

The Commonwealth is now in the position to tackle the issue of evaluating participants in programs across a number of funding sources. This will assist in getting performance data for all publicly funded programs. We have made strides in linking the Adult Basic Education System to WIA Title I services. The Task Force Subcommittee referenced above is also working with the Community College System, which is in the process of developing and tracking system-wide performance measures. It is our hope that as the wage record based performance management system for publicly funded training programs is more firmly established, the state will be in a better position to demonstrate the usefulness of voluntary participation by all training organizations. We do not anticipate that these issues will be fully resolved any sooner than end of the next program year (**June 2004**).

### **D. Description of Waiver Goals and Programmatic Outcomes:**

Massachusetts' Eligible Training Provider List (ETPL) provides information on well over two hundred training providers and several thousand training programs that are available to WIA Title I eligible program participants. Providers encompass a wide spectrum from community colleges and technical schools, to private colleges, universities and schools, to non-profit community based organizations and agencies. The Department of Labor and Workforce Development working through the Commonwealth Corporation, the Massachusetts Division of Employment & Training (the State WIA Title I Administrative Entity), Local Workforce Investment Area Boards and One-Stop Career Centers has worked diligently to market the concept of the ETPL to providers. We have created a comprehensive training provider application web-site which allows training providers to apply for eligibility for a number of publicly funded programs including WIA, update course and organizational information and manage their account.

During the period of initial eligibility, a statewide workgroup of stakeholders identified several major concerns regarding the implementation of the subsequent eligibility process for the training providers:

- The cost and time to develop systems that produce the required information is prohibitive to the individual providers, as well as the state. Providers assert that given the relatively few numbers of WIA-eligible participants in their courses, it did not justify the time and resources needed to produce the required information;
- The problems of using UI record data to compute employment related performance measures including the lack of real-time and comprehensive data;
- Providers assert that some reporting requirements are confidential information, such as social security numbers and wages. It is not always possible to obtain that information from privately paying individuals and requiring it is understood by some providers to be a violation of the Federal Information and Reporting Privacy Act.

We believe a significant number of providers will drop off the list because of these and other issues. In addition, we believe the impact of Eligible Providers dropping off the list would especially affect the substantial population of low-income adults in urban areas and those in the large rural areas of Western Massachusetts, Cape Cod and the Islands. Individual access to education and training programs with the ITA system is especially important to low-income adults because they have more difficult barriers. Likewise, adults in rural areas have fewer job opportunities and new skills that are mandatory for re-employment require additional training. A diminished list of providers will defeat the purpose of customer choice. It is important for the Eligible Provider list to include sufficient numbers of training providers and programs to ensure that customer choice is a reality and that individuals are not excluded from training solely because of an ITA policy limitation.

Massachusetts agrees with the intent behind having a verified list of quality training providers and programs from which customers can make a informed choices about their training. However, Massachusetts needs additional time in which to implement a wage record based performance system that addresses the concerns of the provider community.

The primary goal of this waiver request is to ensure that the increasing numbers of adults and dislocated workers who need training have a system that can offer them training and that includes a high degree of customer choice whenever possible. Other goals include:

- Identify promising practices developed and used by other states to address privacy and data verification issues;
- Use of the time to develop a reporting system that encourages training providers to voluntarily participate and remain on the ETPL.

The delay will enable Massachusetts to maintain a robust and diverse ETPL while moving toward building good data on which will provide additional information to customers to make informed training choices and allow local areas to make informed decisions about subsequent eligibility of training providers.

**E. Description of the Monitoring Process:**

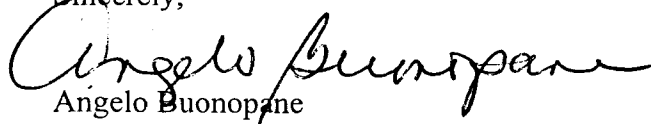
As Director of the Massachusetts Department Labor and Workforce Development, I have directed staff to monitor the development and progress of the waged base performance reporting system as it relates directly to ETPL on a quarterly basis. Development and progress will be monitored by an on-going ITA issues workgroup which meets monthly consisting of various stakeholders in the process such as state workforce development agency staff, local workforce investment board staff members, career center staff, and members of the training provider community. Additionally, staff from my office sits on the Performance Measures Committee of the Governor's Task Force, tying in all aspects of the wage record process.

**F. Public Notice and Comment Opportunity:**

This waiver request was initiated based upon information developed in conjunction with the local areas via an ITA subsequent eligibility workgroup consisting of local workforce board staff members and other stakeholders. While in development, information and updates regarding the waiver request were discussed and made available to local area boards and directors, career center operators, and other interested stakeholders through various forums including updates given at monthly Career Center Operators' Meetings. Information was made available to WIB Directors Association and Career Center Director's Association for distribution and comment to their members. Discussions regarding the waiver request were held at various initial application/eligibility information and training sessions held for the public and training provider community.

Massachusetts believes that the approval of this waiver will allow us to continue to provide first rate services to the citizens of the Commonwealth. Please contact Kim McLaughlin in my office at (617) 727-6573 x. 104 if you have any questions or need further information.

Sincerely,

  
Angelo Buonopane

Cc: Kim McLaughlin  
Joseph Stoltz, Acting Regional Administrator, Region I, USDOL-ETA



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**Department of Labor and Workforce Development**  
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May 14, 2002

Elaine L. Chao  
U.S. Secretary of Labor  
200 Constitution Avenue, N.W.  
Washington, D. C. 20210

JUN 3 8 34 AM '02  
EX-101  
OFFICE OF THE SECRETARY  
DEPARTMENT OF LABOR  
WASHINGTON, D.C. 20210

Re:

**Waiver Request regarding specific requirements under the Workforce Investment Act for the Individual Training Account Subsequent Eligibility period**

Dear Secretary Chao:

Massachusetts implemented the Workforce Investment Act (WIA) in July, 2000. An integral component of the Act is the use of Individual Training Accounts (ITA) for Dislocated Workers, and Low Income Adults to further their education and occupational skills training. Eligible Providers are entitled to receive federal funds under WIA from individuals through Individual Training Accounts. The Initial Eligibility period appears to be successful by empowering individual job seekers to make informed career decisions with increased customer flexibility. However, the Initial Eligibility period in Massachusetts expired on December 31, 2001 and the process for determining Subsequent Eligibility for providers required submitting the additional program specific performance information, stated in Section 122 of the Workforce Investment Act:

Section 122 (d)(1)(A)(i)

- Program completion rates for all individuals participating in the program conducted by the provider
- Percentage of all individuals participating in the program who obtained unsubsidized employment
- Wages at placement in employment of all individuals participating in the applicable program

The provider must also continue to submit the following information for WIA funded participants:

Section 122 (d)(1)(A)(ii)

- Percentage of participants who have completed the applicable program and who are placed in unsubsidized employment
- Retention rates in unsubsidized employment of participants who completed the applicable program, 6 months after the first day of employment
- Wages received by participants who have completed the applicable program 6 months after the first day of the employment
- Rates of licensure or certification, attainment of academic degrees or equivalents or attainment of other measures of skills of the graduates of the applicable program
- Information on program costs, (such as tuition or fees) for participants in the applicable program

In question are the three requirements in Section 122(d)(1)(A)(i) because of the potentially serious outcomes. As shown in the case of Vermont, we believe a significant number of providers will drop off the list because of:

- The cost and time to develop systems that produce the required information is prohibitive to the individual providers, as well as the state.
- The problems of using UI record data to compute employment related performance measures including the lack of real-time and comprehensive data
- Providers assert that some reporting requirements are confidential information, such as social security numbers and wages. It is not always possible to obtain that information from privately paying individuals and requiring it is understood by some providers to be a violation of the Federal Information and Reporting Privacy Act.

That which affects state wage record reporting is currently being addressed in a task force subcommittee appointed by the Governor to improve system capability. Other issues remain to be resolved and we believe the impact of Eligible Providers dropping off the list would especially affect the substantial population of low-income adults in urban areas and those in the large rural areas of Western Massachusetts, Cape Cod and the Islands. Individual access to education and training programs with the ITA system is especially important to low-income adults because they have more difficult barriers. Likewise, adults in rural areas have fewer job opportunities and new skills that are mandatory for re-employment require additional training. A diminished list of providers will defeat the purpose of customer choice. It is important for the Eligible Provider list to include sufficient numbers of training providers and programs to ensure that customer choice is a reality and that individuals are not excluded from training solely because of an ITA policy limitation.

Without the means to obtain the labor market skills in demand, the job seeker and the employer lose out. The essential performance measure to bear in mind, is private sector satisfaction with the system and meeting the demands of job seekers in the system. So, while accurate performance information is necessary in the long run, for a truly effective system of informed customer choice, in the short run we believe offering a wider variety of providers is more important. And allowing state and local Workforce Investment Board flexibility, will ensure that local boards have the maximum possible discretion to develop successful ITA programs.

Given the logistics of determining continuing eligibility with a sizeable pool of training vendors before the December 30, 2001 deadline, Massachusetts proceeded with a process of performance information that did not require the consideration of all individuals participating in a program seeking Subsequent Eligibility.

Therefore, the Commonwealth of Massachusetts is requesting a temporary waiver from the requirements in Section 122(d)(1)(A)(i) which pertain to completion rates, entered employment rates and wages at placement for non-funded participants. By granting a waiver for these performance measures, USDOL would allow Massachusetts to continue to use its current process which does not require the consideration of all individuals. This process as currently instituted has shown not to diminish the Eligible Provider List to a level where customer choice is compromised by the Subsequent Eligibility process.

If you have any questions, please contact Kim McLaughlin at (617) 727-6573 x 104.

Sincerely,



Angelo Buonopane

cc. Robert Semler, Regional Administrator, U.S. DOL, Region I  
Kim McLaughlin, Department of Labor and Workforce Development  
Jonathan Raymond, Commonwealth Corporation  
Jack King, Division of Employment and Training